

February 17, 2006

Hon. Bill Lockyer  
Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

Attention: Ms. Tricia Knight  
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative related to home construction (File No. SA2006RF0009).

## Background

*Residential Construction Defects.* In cases when residential property has construction defects, California property owners generally have up to ten years from the time of construction to seek compensation. Due to recent legislative changes, the procedures for seeking compensation are different depending on when the residence was constructed.

- *Pre-2003 Construction.* For residential properties built prior to 2003, current law allows homeowners to sue builders in cases of property damage or personal injury.
- *Recent Construction.* For residential properties built in 2003 or later, current law establishes specific construction standards that homes must meet. Before a lawsuit is filed regarding construction defects, specific procedures regarding notifications, inspections, repairs, and mediation must be followed. Conversions of apartment complexes to condominiums, however, are not subject to these new rules.

*Contractors' Licenses.* Individuals involved with the construction of homes—such as builders and contractors—must be licensed by the Contractors' State Licensing Board (CSLB). A contractor is required to report a construction-related civil court judgment to CSLB within 90 days. Contractors can have their licenses suspended if they do not resolve these judgments (for instance, by paying the person owed money). A license remains suspended until the judgment is resolved. The CSLB, which is funded from licensing fees, spends more than \$50 million annually for its activities.

## Major Provisions

This statutory measure expands the conditions under which homeowners can sue builders for construction defects in residential properties built prior to 2003 and any condominium conversions. (Residential construction since that time would continue to be governed by current law.) Specifically, under the measure, homeowners could sue builders even if a construction defect resulted in no physical damage.

In addition, the measure expands the conditions under which contractors could have their licenses suspended. In any three-year period, if a licensee had more than one judgment of over \$100,000 related to “intentionally, willfully, or recklessly” failing to comply with construction requirements, the license would be suspended for five years.

## Fiscal Effect

*Court Costs.* By allowing construction defect lawsuits when there is no property damage, this measure would likely increase the number of construction defect lawsuits filed. Any workload increases could be partially offset by builders opting to settle more construction defect cases under the measure. This could occur to the extent that builders chose to settle instead of potentially incurring judgments of over \$100,000 that would threaten their licensing status. While the court system does not track the number of construction defect lawsuits, such lawsuits generally are not a significant portion of courts’ cases. Any net increase, therefore, likely would not have a significant effect on courts’ workload.

*CSLB Costs.* By adding new responsibilities for CSLB, the measure would increase CSLB’s costs. The number of future judgments meeting this measure’s standard (over \$100,000 and intentional, willful, or reckless actions) would determine how much additional workload CSLB would experience. The CSLB, however, does not currently track this information. While unknown, we would expect any increase in costs to be relatively minor. These costs would be covered by fees.

*Other Possible Effects.* Since CSLB does not currently track the number of judgments that would fall under the measure’s standard for suspending a license, it is unknown to what extent the measure would increase license suspensions in the future. Given that judgments would have to meet both the \$100,000 threshold and the intentional, willful, or reckless actions criteria, we would expect relatively few additional suspensions. If, however, the measure resulted in a large number of suspensions, it could have a significant effect on the building industry (and potentially state and local tax revenues).

*Fiscal Summary.* This measure would have the following fiscal impact:

- Probably minor increase in state costs and fees related to the licensing of building contractors.

Sincerely,

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Elizabeth G. Hill  
Legislative Analyst

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Michael C. Genest  
Director of Finance